

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

23-CR-60

PETER G. GERACE, JR.,

Defendant.

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**RESPONSE TO DEFENSE MOTION TO  
ADJOURN PRETRIAL MOTION DEADLINE**

THE UNITED STATES OF AMERICA, by and through its attorney, Trini E. Ross, United States Attorney for the Western District of New York, David J. Rudroff, Assistant United States Attorney, of counsel, hereby responds to the defense motion to adjourn the pretrial motions deadline, and requests that any reset deadlines for the filing of pretrial motions be 30 days or less.

On June 8, 2023, a Grand Jury sitting in the Western District of New York returned an Indictment charging the defendant with four counts of wire fraud related to a series of loans he received under the Small Business Administration's Economic Injury Disaster Loan program. Dkt. 1. The defendant was arraigned on June 15, 2023, and the Court set a schedule for the filing of pretrial motions. *See* June 15, 2023, Minute Entry. At that time, the defendant requested a deadline for pretrial motions in November 2023—five months after arraignment—due to the defendant's impending trial in Case Nos. 19-CR-227 and 23-CR-37 (the "Consolidated Cases"). The defendant was represented, and continues to be represented, by Eric M. Soehnlein, Steven M. Cohen, and Tyler J. Eckert.

The government produced voluntary discovery on July 17, 2023. The government contacted defense counsel, Mr. Cohen, on that day, and he asked that the discovery be left at the United States Attorney's Office for his pick-up. As of the date of this filing, that discovery is still awaiting pick-up.

The defense did not file pretrial motions by the November 13, 2023, deadline to do so, but instead moved to adjourn the motions schedule. The defense cited the need to "continue" reviewing discovery, and to prepare for trial in the Consolidated Cases, which is scheduled to begin January 8, 2024. Dkt. 23. The government hereby opposes any lengthy adjournment request and asks the Court to set a deadline for the filing of pretrial motions of 30 days or less.

The proffered reasons for the defense request—the need to complete its review of discovery and the need to prepare for the defendant's upcoming trial—do not justify a lengthy adjournment of the scheduling order. First, as noted, the defendant had approximately five months within which to review discovery and prepare motions,<sup>1</sup> and the government's production consisted of a mere 336 pages. The defense has therefore had ample time to review those documents and prepare discovery.

Moreover, the upcoming trial in the Consolidated Cases does not justify a lengthy adjournment here. According to the Docket, the defendant has three attorneys representing him on this case: Eric Soehnlein, Steven Cohen, and Tyler Eckhert. Mr. Soehnlein is the only attorney that is also representing the defendant in his upcoming trial. Mr. Cohen and Mr.

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<sup>1</sup> Although the government officially produced discovery to the defense on July 17, 2023, the defense had many of the documents underlying this case and produced in discovery prior to the government's production. These documents and the facts underlying this prosecution were proffered by the government in extensive detention litigation in the Consolidated Cases.

Eckhart advised the Court in the Consolidated Cases that they had been terminated as trial counsel in July 2023, and they were officially relieved as counsel on September 6, 2023. *See* Case No. 19-CR-227, Dkt. 622. The defendant therefore has two capable attorneys who are not involved in his other criminal case and who can review the 336 pages of discovery and prepare motions in this case.

Lastly, this case is independent of the Consolidated Cases, is of public importance, and should be treated as such. As described in the indictment, the defendant is accused of lying to obtain \$2,000,000 in government funds that had been set aside for businesses struggling through a global pandemic. That is \$2,000,000 that was not available for qualified businesses that needed the money to navigate the national emergency. In terms of financial loss, this is one of the larger COVID-19 fraud cases being prosecuted in the Western District of New York. This case is therefore serious, and it should be regarded independently, and not merely as a follow-on to the Consolidated Cases.

For these reasons, the government respectfully requests that any adjournment granted by the Court not exceed 30 days.

DATED: Buffalo, New York, November 20, 2023.

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